



faegredrinker.com

Michael J. Kanute
Partner
mike.kanute@faegredrinker.com
+1 312 212 6510 direct

Faegre Drinker Biddle & Reath LLP
320 South Canal Street, Suite 3300
Chicago, Illinois 60606, USA
+1 312 569 1000 main
+1 312 569 3600 fax

November 7, 2023

VIA ECF FILING

Honorable Nicholas G. Garaufis, District Judge
Honorable Marcia M. Henry, Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: MDL No. 3044, *In re: Exactech Polyethylene Orthopedic Products Liability Litigation*, 1:22-md-03044-NGG-MMH

Dear Judge Garaufis and Magistrate Judge Henry:

Pursuant to the Court's Minute Entry & Order dated October 12, 2023 (Dkt. # 454), the parties hereby jointly file the following for the Court's review: (1) Judge Keim's Amended Case Management Order for Bellwether Trial Selection Process in the Florida proceedings; and (2) the parties' Proposed Joint Case Management Order for Bellwether Trial Selection Process in the MDL.

As it relates to the parties' Proposed Joint Case Management Order for Bellwether Trial Section Process in the MDL, the parties would like to highlight the fact that they are seeking a slight modification of the First Amended Case Management Order Governing Discovery (Dkt. 400) as relates to the deadline to file motions to join new parties or amend pleadings, which is currently December 7, 2023. (*Id.* at p. 5.) Because new discovery information has emerged and may still emerge as to potential new parties and also because the determination of whether to add new parties and claims can be dependent on the individual facts and laws specific to each bellwether case, the parties wish to amend the December 7, 2023 deadline to add new parties and amend pleadings to thirty days after the court selects the four bellwether cases. The parties' proposal regarding the new deadline to file motions to join new parties or amend pleadings can be found at paragraph 12 of the attached Proposed Joint Case Management Order for Bellwether Trial Section Process in the MDL.

If the parties' Proposed Joint Case Management Order for Bellwether Trial Selection Process in the MDL meets the Courts approval, the parties respectfully ask the Court to enter the same.

We thank the Court for its time and consideration of this matter.

Respectfully submitted,

WEITZ & LUXENBERG, P.C.

/e/ Ellen Relkin

Ellen Relkin

700 Broadway
New York, NY 10003
T: 212-558-5500
F: 212-344-5461
erelkin@weitzlux.com

POPE McGLAMRY, P.C.

/s/ Kirk Pope

N. Kirkland Pope
3391 Peachtree Road, NE
Suite 300
Atlanta, GA 30326
T: 404-523-7706
F: 404-524-1648
Kirkpope@pmkm.com

Plaintiffs' Lead Counsel

**FAEGRE DRINKER BIDDLE & REATH
LLP**

/s/ Michael J. Kanute

Michael J. Kanute
Ruben I. Gonzalez
Sean J. Powell
320 South Canal Street, Suite 3300
Chicago, IL 60606
T: 312-212-6510
F: 312-569-3000
Mike.kanute@faegredrinker.com
Ruben.gonzalez@faegredrinker.com
Sean.powell@faegredrinker.com

J. Stephen Bennett
110 West Berry Street, Suite 2400
Fort Wayne, IN 46802
T: 260-424-8000
F: 260-460-1700
Stephen.bennett@faegredrinker.com

Susan M. Sharko
600 Campus Drive
Florham Park, NJ 07932
T: 973-549-7000
F: 973-360-9831
Susan.sharko@faegredrinker.com

***Counsel for Defendants Exactech, Inc.
Exactech U.S., Inc.***

cc: All Counsel of Record via ECF